IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 16140 of 2003

Between:

1 Gopathi Rajesham, S/o. Kanakaiah,
2 Md. Sadiq, S/o. Md. Ismail,
3 Gandla Iyalaiah, S/o. Mallaiah,
4 L.V. Subrahmanyam, S/o. Suryaprakash,
5 K. Rajaiah, S/o. Mysaiah,
6 B. Lachaiah, S/o. Ramaiah,
7 P. Chinnaiah, S/o. Rayalingu,
(All are resident of Ramakrishnapur Village, Adilabad District)

..... PETITIONERS

AND

1 The General Manager, Singareni Collieries Company Limited,
Ramakrishnapur Area, Ramakrishnapur, Adilabad.
2 The Colliery Manager, Motilalkhani No.4 Incline,
Ramakrishnapur, Adilabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the action of the respondents in withdrawing the petitioners from the Officiating Service in preference to juniors is arbitrary and consequently direct the respondents to continue the petitioners in the post of Coal Cutters, Linemen before considering their juniors, (ii) declare that the petitioners are entitled for regularization in the post of Coal Cutter, Linemen, taking into consideration their acting musters in terms of the settlement entered into between the Management and Union.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondents: Mr. I.V. Prasad for Mr. K. Srinivasa Murthy

The Court made the following :

ORDER:

Heard Sri Vidyasagar, learned counsel appearing for the petitioners and also Sri I. V. Prasad, learned counsel appearing on behalf of Sri K. Srinivasa Murthy for respondents.

Petitioners herein, who claim to be working in the respondent-Singareni Collieries Company, filed this Writ Petition inter alia, seeking for a Mandamus declaring the action of the respondents in withdrawing the petitioners form the Officiating Service in preference to juniors, as arbitrary and also direct the respondents to continue the petitioners in the post of Coal Cutters, Linemen before considering their juniors, and declare that they are entitled for regularization of service in the post of Coal Cutter, Linemen, taking into consideration their acting musters in terms of the settlement entered into between the Management and the Union.

The main grievance of the petitioners is that they have been working as coal fillers since its inception and subsequently they have been taken as Coal Cutters from the year 1995, the same is also evident from the proceedings issued by the respondent- Singareni Collieries dated 22.11.2002. The complaint is that the settlement contemplates the recognition of such services and also regularizing their services, but the respondents ignoring the petitioners, are giving promotions to the juniors in the post of Coal Cutters etc., therefore, it is not only contrary to the settlement arrived at, but also contrary to the services which put up by the petitioners. Hence, the present Writ Petition.

In the counter affidavit denying the claim of the petitioners, it is stated that though the petitioners are officiating in the said higher post, but however, the fact remains that the so called juniors who are not made parties to the Writ Petition and were asked to officiate in their place. It is further submitted that as far as officiating arrangement is concerned, there is no such principle of juniority or seniority except in some cases where the officiating is made as the basis of the regularization to the

said post which is not the case in this Writ Petition and therefore, they cannot seek any relief as such.

Considering the submissions made and also on perusal of the material, it is seen that there is no dispute of the basic fact that the petitioners have been initially appointed as Coal Fillers but however, since 1995 they have been officiating in the post of Coal Cutters and the same is also evident from the settlement arrived at between the Management and the Union. However, admittedly, respondents herein not chosen to follow the settlement and terms contained therein and it is also not denied that they have been officiated the juniors to the petitioners. In the circumstances, it cannot be said that the respondents are justified in their action in denying the petitioners' legitimate rights based upon the length of service and also in terms of the settlement.

In the result, the Writ Petition is allowed. Respondents are directed to consider the case of the petitioners for confirming their services in the higher cadres in which they are officiating all alone by following the panel, which has been already prepared. No costs.

_____ B. PRAKASH RAO, J

Dated:20.12.2004.

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Monday, The Twentieth Day of December Two Thousand and Four.

To

1. The General Manager, Singareni Collieries Company Limited,
   Ramakrishnapur Area, Ramakrishnapur, Adilabad.

2. The Colliery Manager, Motilalkhani No.4 Incline,
   Ramakrishnapur, Adilabad District.

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